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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/980,549	04/05/2002	Tommi Koistinen	4925-161PUS	5724

7590

04/17/2006

Michael C Stuart
Cohen Pontani Lieberman & Pavane
551 Fifth Avenue
Suite 1210
New York, NY 10176

EXAMINER

WOZNIAK, JAMES S

ART UNIT

PAPER NUMBER

2626

DATE MAILED: 04/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/980,549	Applicant(s) KOISTINEN, TOMMI	
	Examiner James S. Wozniak	Art Unit 2626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 August 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 August 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1-8** are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki et al (*U.S. Patent: 5,493,610*) in view of Chang et al (*U.S. Patent: 5,367,523*).

With respect to **Claims 1 and 4**, Suzuki discloses:

A transceiver means being operable with variable transfer rates (*means for controlling a data transmission rate, Col. 4, Lines 41-62*);

A detecting means for detecting the load upon a network circuit (*means for determining a load status of a transmission circuit, Col. 6, Lines 1-12; and Col. 10, Lines 61-65*);

A control means for adjusting the transfer rate of the transceiver means in response to the detected load (*means for designating a transmission rate of a data signal, Col. 6, Lines 1-12; and Col. 10, Lines 61-65*);

Characterized in that:

The transceiver means comprises a modem for modulating and demodulating of non-speech data (*modem for use with facsimile-related data, Col. 4, Lines 41-62; Col. 6, Lines 35-35*);

and Fig. 1, Element 5) and a codec for encoding and decoding of speech data (speech encoder/decoder Col. 4, Lines 41-62; and Fig. 1 Elements 7 and 13).

Suzuki does not teach adjusting a transmission rate according to a priority, wherein a speech codec has a higher priority than the facsimile modem. Chang, however, discloses a means for altering a transmission rate according to a network congestion status (*Col. 2, Lines 53-64; and Col. 8, Lines 3-24*), wherein real-time voice signals receive a higher priority than non-real-time data signals (fax) that receive a lower transmission rate under a congestion condition due to discarded packets (*Col. 6, Lines 21-48*).

Suzuki and Chang are analogous art because they are from a similar field of endeavor in congestion-based transmission rate adaptation. Thus, it would have been obvious to a person of ordinary skill in the art, at the time of invention, to modify the teachings of Suzuki the with transmission rate adaptation means taught by Chang to provide a means for guaranteeing the transmission of high priority voice data in order to meet a desired service level and achieve optimum data transmission performance (*Chang, Col. 6, Lines 50-60*).

With respect to **Claims 2 and 5**, Suzuki discloses:

The transceiver means comprises a plurality of predetermined transfer rates and the control means is adapted to select one of the predetermined transfer rates in response to the detected load (*multiple transmission rates, Col. 6, Lines 55-67; and transmission rate designation, Col. 6, Lines 1-12*).

With respect to **Claims 3, and 6-8**, Chang recites:

Sending a test packet to a predetermined destination over the network, receiving the test pack back from the predetermined destination and analyzing the occurring delay in order to

determine the load on the network (*determining network congestion based on a round trip delay of a rate feedback request sample packet, Col. 7, Lines 46-56; and Col. 10, Lines 29-38*).

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Fielding et al (*U.S. Patent: 5,434,850*)- teaches a method for discarding frames during a network congestion condition based on priority, wherein data frames are given a lowest priority.

Rostoker et al (*U.S. Patent: 5,802,287*)- teaches a device that alters a data rate based on network congestion for use in voice and coded text applications.


Korus et al (*U.S. Patent: 5,918,182*)- teaches a transmission system, having a congestion detector, which gives a higher priority to voice traffic.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James S. Wozniak whose telephone number is (571) 272-7632. The examiner can normally be reached on M-Th, 7:30-5:00, F, 7:30-4, Off Alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Hudspeth can be reached at (571) 272-7843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James S. Wozniak
4/5/2006



DAVID HUDSPETH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600